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Summary judgment is appropriate when there is “no genuine issue of material fact,” given the parties’ burdens of proof at trial. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986); *see* Fed. R. Civ. P. 56(c). In the present case the plaintiff has been unable to present evidence that would show that the defendant met this definition during the relevant times. Accordingly, summary judgment is appropriate.

For these reasons, the defendant’s Motion for Summary Judgment will be granted by a separate judgment.

DATED: September 3, 2006

/s/ JAMES P. JONES
Chief United States District Judge